

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

**PLAINTIFFS' RESPONSE TO DEFENDANT UNIVERSITY OF TEXAS  
MEDICAL BRANCH'S EMERGENCY MOTION TO QUASH DEPOSITION**

In light of the discovery issues raised in Plaintiff's previously-filed Motion for Sanctions and Motion to Show Cause (Doc. 164), Plaintiffs are concerned that UTMB has not adequately preserved and retrieved electronically stored information such as emails, memos, and minutes. Plaintiffs are most concerned that UTMB has deleted information or may be continuing to delete information through its document retention policies. For these reasons, Plaintiffs believe it is important that the deposition of UTMB's 30(b)(6) witness on IT issues take place quickly.

Plaintiffs sent a letter to UTMB on May 6 requesting availability for a deposition of UTMB's IT director and included May 28 as a possible date. *See Exhibit 1.* UTMB did not directly respond. *See Exhibit 2.*

Plaintiffs then noticed a 30(b)(6) witness on May 14 for a May 28 deposition. See

**Exhibit 3.** Plaintiffs offered to reschedule if May 28 did not work, so long as the deposition could be rescheduled to a date close to May 28. *See Exhibit 4.* Today, UTMB suggested we reschedule for next week, the week of June 2. *See Exhibit 5.* Plaintiffs spoke with UTMB's counsel about dates and locations for the deposition next week, only to learn that UTMB had changed its mind and would *not* present the witness until June 16 and would not do it in Austin where all the lawyers are. Instead UTMB would only present the witness in Galveston, thereby increasing the fees and costs for all parties. *See Exhibit 6.* Further, taking Defense counsel at her word that she is no longer available tomorrow—a fact nowhere mentioned in her correspondence today—UTMB has multiple attorneys in Austin defending this case that could defend this deposition. Finally, as no affidavit was attached to UTMB's motion, it is unclear why Mr. Shaffer cannot appear for the deposition tomorrow and why there are no other witnesses at UTMB that could testify on the noticed topics.

For the foregoing reasons, Plaintiffs request that the deposition not be quashed and that the Court deny Defendant's motion. In the alternative, Plaintiffs respectfully request that the Court order UTMB's 30(b)(6) witness to appear on June 2 or June 3 in Austin, where all the lawyers are located, or in Galveston at UTMB's cost, including reasonable and necessary attorneys' fees incurred to travel to Galveston.

DATED: May 27, 2014.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

By my signature above, I certify that a true and correct copy of the foregoing has been served on all counsel of record through the Electronic Case Files System of the Northern District of Texas.